

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**David S. & Jessica L. Sosnouski,**  
Appellants,

**v.**

**Story County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-85-0215**  
**Parcel No. 15-13-220-030**

On February 18, 2015, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Sosnouskis were self-represented. Assistant Story County Attorney Jessica Reynolds represented the Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

***Findings of Fact***

David S. and Jessica L. Sosnouski are the owners of a residentially classified property located at 2063 Katie Lane, Ames, Iowa. It is a two-story home built in 2004. It has 5529 square feet of living area and a full, walkout basement with 2015 square feet of living-quarter quality finish. It also has a full open porch; 1008 square-foot of deck; a 582 square-foot patio; and a 1262 square-foot attached garage. The site is 3.89 acres. (Exhibit A).

The Sosnuskis protested the January 1, 2014, assessment of \$1,096,600, allocated as \$191,700 in land value and \$904,900 in improvement value, to the Story County Board of Review. This was a change in value from the previous year and thus all grounds for protest under Iowa Code section 441.37(1)(a)(1) were available. The Sosnouskis asserted the property was inequitably assessed and assessed for more than authorized by law under sections 441.37(1)(a)(1) and (2). The Assessor's

Office completed an interior inspection and, as a result, the Board of Review reduced the total assessment to \$1,094,700.

Sosnouskis then appealed to this Board reasserting their claim of over-assessment. They asserted the correct fair market value was \$815,000.

The Sosnouskis purchased the subject property on July 1, 2013, for \$810,000. The record indicates the subject was a short sale, and the Sosnouskis acknowledge this fact. The sale of the subject property was complicated as the previous owners were going through a divorce. The property was for sale for roughly three years and two banks had an interest in it when the Sosnouskis purchased it. The Board of Review submitted multiple exhibits demonstrating the sale of the property was abnormal and not reflective of market value. (Exhibits C, E, & F). Additionally, County Assessor Wayne Schwickerath testified regarding this fact. We find the record is undisputed that the subject property's 2013 sale was abnormal. For these reasons, we do not find the sales price to be an indication of the fair market value of the property.

The Sosnouskis submitted a spreadsheet showing all of the properties they could find in Story County, including the City of Ames, with more than 4000 square feet that had sold in the last twenty-four months. (Exhibit 1). From this list, they selected six properties they considered as the best comparables to their property. The following chart briefly summarizes those properties.

Address	Style	Year Built	Gross Living Area (GLA)	Finished Basement	Site Size	Sale Price	Date of Sale
Subject	2 Sty	2004	5529	2015	3.89	\$810,000	Jul-13
2619 Lindwood Cr	2 Sty	1991	4615	2114	0.83	\$615,000	Aug-13
3431 Oakland St	2 Sty	1989	5212	2268	2.62	\$670,000	Aug-14
23945 667th Ave	2 Sty	2002	5679	1229	9.60	\$640,000	Jul-14
4850 Timber Creek Ln	1 Sty	1999	4882	744	16.55	\$1,049,334	Nov-13
2410 State St	1 Sty	1996	4459	1490	4.96	\$450,000	May-14
2080 Quail Ridge Rd	2 Sty	2004	4643	2928	2.79	\$1,160,000	Jun-13

The Sosnouskis also submitted a narrative description of the six properties. (Exhibit 1). The exhibit highlights the Sosnouskis' opinions of the quality and features of each of the properties and any comparison they draw to their property.

Jessica Sosnouski testified regarding the property located at 2080 Quail Ridge Road, among other things. The Quail Ridge Road property is the most similar to the Sosnouskis' in total finished area (GLA plus basement finish), year built, site size, and location and sold for \$1,160,000. Jessica testified she believes this property is superior to theirs because it has features such as a large detached garage with a loft area and superior landscaping. She also believes it has superior workmanship and overall quality.

Jessica also testified they believe their property lacks quality of workmanship and finishes, and that it has many other flaws that affect its value. They submitted photos to support this opinion. (Exhibit 2 pp. 135-146). Jessica noted the subject has many different types of wood finish and hardware throughout; that it has deferred maintenance such as some cracked flooring; and that it has inferior building materials such as fiberglass surrounds for the bathroom tub/showers compared to tiled surfaces in other high-end properties. Lastly, she asserts the area above the garage has less utility due to the layout and access. When questioned by the Board of Review about any updates to the property after purchase, Jessica testified that they replaced flooring (carpet and hardwood) throughout the home with an estimated cost of \$25,000.

Ultimately, the sales the Sosnouskis selected were not adjusted for differences. These properties vary from the subject some having significantly less square feet of finished area both above and below grade, were built at different times, and have different site sizes. Without adjustments for these factors, among others, their sales prices are not indicative of the subject property's fair market value. Further, we note three of the properties sold after the January 1, 2014, assessment. While sales after the assessment date may be useful in some cases; in this case, we find the record indicates there

were sufficient other sales that occurred prior to the assessment date, such as the sales of the Timber Creek Lane and Quail Ridge Road properties, to reach a conclusion of market value for the subject property.

The Sosnouskis also submitted an appraisal of the subject property completed by Jason C. Mortimer of JRM & Associates, Inc., Ames. (Exhibit G). Mortimer's appraisal was done for mortgage financing purposes as part of the subject's short-sale transaction, and he determined a value of \$815,000 as of May 2013.

We note Mortimer's description of the subject property conflicts with the Sonouskis' opinion of the quality and condition. Mortimer states that "the subject dwelling was originally constructed utilizing high-end materials..." (Exhibit G p. 1). He also notes the only deficiencies were cosmetic, "such as worn paint and floor coverings." However, as previously noted, after purchasing the property, the Sosnouskis updated the flooring throughout much of the home, spending \$25,000 in new carpet and hardwood. Mortimer details the additional features of the subject property in the addendum of his report. (Exhibit G p. 10). Some of the highlights include:

- extensive built-ins
- ceiling details in several rooms
- indirect lighting
- central vacuum
- irrigation
- built-in lockers in the laundry room
- furniture style vanities
- large multi-level deck
- wine cellar
- commercial grade appliances in the kitchen including a sub-zero refrigerator
- mosaic tile inlay in foyer
- double-sided fireplaces
- wet bar and sunken family room in the lower level
- radiant heated floors in the kitchen and master bath
- theater room with stadium seating

Mortimer developed the sales comparison and cost approaches but only considered the sales approach in his final opinion of value. The following chart outlines the properties he used.

Address	Style	Year Built	Gross Living Area	Finished Basement	Site Size	Sale Price	Date of Sale
Subject	2 Sty	2004	5529	2015	3.89	\$810,000	Jul-13
1573 Stagecoach Rd, Ames	2 Sty	1969	4271	0	10.44	\$747,000	Jun-12
7256 NW 100th St, Grimes	2 Sty	2005	4765	2690	4.99	\$775,000	Oct-12
2713 NE Seneca Dr, Ankeny	1.5 Sty	2004	4859	1150	0.80	\$760,000	Mar-12
2601 Oakwood Rd, Ames	1 Sty	1947	5445	485	4.48	\$743,000	Jul-12
2705 Ridgetop Rd, Ames	2 Sty	1995	3937	2213	0.79	\$827,750	Listing
2080 Quail Ridge Rd, Ames	2 Sty	2005	4643	3020	2.79	\$1,250,000	Listing

Four of the properties were sales and two were active listings located in Story and Polk Counties. All four sales occurred in 2012, while the listings sold in 2013 after the effective date of the appraisal.

Reviewing the appraisal, we are first hesitant to rely on it because all of the sales used in it were from 2012. While this was completely reasonable for the effective date of the appraisal, the record indicates newer, 2013, sales exist that would be more reasonable to use for a January 1, 2014, assessment date. The Sosnouskis submitted three more recent 2013 sales in Story County of properties in excess of 4000 square feet of living area. We believe a search of similar size and quality homes in Story and Polk Counties would likely yield additional properties for consideration.

Additionally, the Board of Review was critical of some of the sales Mortimer used in his analysis. Sale #1 at 1573 Stagecoach Road is a much older property and required significant quality and age adjustments. The Board of Review asserts the adjustments Mortimer made are insufficient. Deputy Assessor Brent Baldruf testified that he had inspected this sale and that it has not been updated and the quality is far inferior to the subject. Further, Mortimer adjusted this sale by \$100,000 for its site, reporting that it was comprised of two lots, one of which was vacant and had its own highest and best use. This coupled with the concerns of quality and age lead us to the conclusion it is not a reasonably comparable property to the subject.

Mortimer reports Sale #2 at 7256 NW 100th Street, Grimes as a short sale but did not adjust for this distorting factor. He comments in his addendum that no adjustment was necessary. (Exhibit G p.

10). However, he provides no support for why an adjustment was unnecessary and given that other sales were available that were unaffected by this factor, we decline do not find this sale to be a reliable indicator of market value.

The Board of Review was also critical of Sale #3 located at 2713 NE Seneca Drive, Ankeny, because of its location. We do not share this concern, but we question the lack of information about the sale and the site adjustments Mortimer applied. Mortimer reports no multiple listing (MLS) information was available on this property, and he was, therefore, unable to determine the quality and condition of the property. Rather, he assumes the quality and condition are typical for properties in its development. We question why he then makes a downward \$20,000 adjustment for condition to this property when his previous assumption was that it has similar quality and condition to other homes in its price range and neighborhood. Finally, this sale occurred in March 2012, nearly two years prior to the January 1, 2014, assessment date, which we find limits its reliability.

Likewise, Mortimer reports that he did not have any MLS data for Sale #4 at 2601 Oakwood Road, Ames, but that he relied on other verification of the quality and condition. He reports this property was “extensively updated and remodeled since the 1990s” but he provides no explanation of that updating and remodeling. Additionally, this property was originally built in 1966 compared to the subject’s 2004 construction, and without further explanation, we question whether this property is reasonably comparable to a more modern improvement like the subject property and do not find it a reliable indicator of value.

The Board of Review relies heavily on the sale of 2080 Quail Ridge Road, which is also located in the subject’s development. It asserts that based on the sale of this property, the subject property is not over-assessed. Balduf testified that he inspected this property in June 2014. In his opinion, the subject property has interior features that are superior to 2080 Quail Ridge, which offsets

2080 Quail Ridge's superior landscaping and outbuilding. Ultimately, he considers the property to be of similar quality and condition.

While Mortimer included this property in his analysis it was only as a listing. The property sold in June 2013 for \$1,160,000. The Board of Review replicated Mortimer's analysis and adjustments applied to this property with the exception of the listing adjustment and determined an adjusted indicated value of \$1,129,100 compared to the subject property. (Exhibit H). While we hesitate to rely on one sale to determine the market value of a property, it is the only evidence in the record of an adjusted property we consider comparable to the subject.

Because of this protest, Balduf inspected the subject property and testified that in his opinion, the subject is a high-quality home in good condition.

Balduf also testified regarding Exhibits I and J, which were compiled by the Board of Review in preparation of an equity claim that the Sosnouskis had originally raised. However, at hearing the Sosnouskis confirmed their only claim to this Board was market value. Therefore, we do not find it necessary to recite Balduruf's testimony and we give this evidence no consideration.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

While the purchase price of the property may be an indication of market value, we do not find it alone is sufficient to conclusively determine the fair market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). The Sosnouskis admit the subject property was a short sale transaction. Moreover, the evidence demonstrates the property was sold from an investment company, priced and sold below-market, and we find the sale was abnormal. § 441.21(1)(b). For these reasons, we do not find the subject property's sale price is a reliable indicator of its market value for assessment purposes. *Id.* ("In arriving at market value, sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales.").

If PAAB is not persuaded as to the comparability of the properties, then it "cannot consider the sales prices of those" properties. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 1009) (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)).

Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.

*Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).




Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Admitted sales must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments. *Id.* (other citations omitted).

The Sosnouskis’ Exhibit 1, which listed sales in the County and specifically identified six properties as comparable, was not adjusted for differences that exist between those sales and the subject property, and therefore, were give them no consideration. The Mortimer appraisal offers an opinion of the fair market value; however, as previously noted, we find flaws with the appraisal that impact its reliability. Several of the sales Mortimer selected do not appear to be reasonably comparable to the subject property due to the significant differences in age, quality, and condition, which necessitated large adjustments. Further, we note all of the sales used in the appraisal occurred in 2012, yet the record shows there are sales of similar sized properties that occurred in 2013. In addition to our other concerns, this fact indicates the subject property’s current market value is not reflected by the older appraisal because newer sales exist that could have been used to determine a 2014 assessed value. For these reasons, we do not find the appraisal to be persuasive evidence and is insufficient to show the subject property’s fair market value as of January 1, 2014.

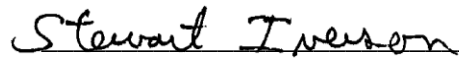
Based on the foregoing, we find the Sosnouskis have not shown the subject property is over-assessed.

THE APPEAL BOARD ORDERS the 2014 assessment of David S. and Jessica L. Sosnouskis' property located at 2063 Katie Lane, Ames, Iowa, set by the Story County Board of Review, is affirmed.

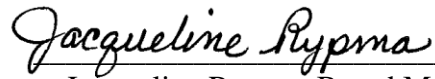
Dated this 19th day of March, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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